

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FRANK LEBEAU, JR.,)
Plaintiff,)
v.)
LUIS SPENCER, Commissioner of Correction,)
et al.)
Defendants.)

)

) Civil Action No.
15-11213-PBS

ORDER

SARIS, C. J.

1. Plaintiff's motion for leave to proceed *in forma pauperis* (Docket Entry No. 9) is GRANTED. Pursuant to 28 U.S.C. § 1915(b)(1), the Court assesses an initial partial filing fee of \$0.03. The remainder of the fee, \$349.97, shall be collected in accordance with 28 U.S.C. § 1915(b)(2).

2. Plaintiff's motion for appointment of counsel (Document No. 10) is DENIED without prejudice. The Court may request an attorney to represent plaintiff if it finds that: (1) plaintiff is indigent and (2) exceptional circumstances exist such that the denial of counsel will result in a fundamental unfairness impinging on his due process rights. *DesRosiers v. Moran*, 949 F. 2d 15, 23 (1st Cir. 1991); 28 U.S.C. 1915(e)(1). Even though plaintiff is indigent, he has not demonstrated "exceptional circumstances" that warrant appointment of counsel. Rather, plaintiff merely asserts, like almost any *pro se* litigant, that his claim is complex and that he needs assistance preparing his case. Moreover, the defendants have not yet been served.

3. The Clerk shall issue a summons for service of the complaint on the defendants.

4. The Clerk shall send the summonses, complaint, and this Order to the plaintiff, who must thereafter serve the defendants in accordance with Federal Rule of Civil Procedure 4(m). The plaintiff may elect to have service made by the United States Marshals Service. If directed by the plaintiff to do so, the United States Marshals Service shall serve the summonses, complaint, and this Order upon the defendants, in the manner directed by the plaintiff, with all costs of service to be advanced by the United States. Notwithstanding Fed. R. Civ. P. 4(m) and Local Rule 4.1, the plaintiff shall have 120 days from the date of this Order to complete service.

5. The defendants are required to respond to the complaint. *See* 42 U.S.C. §1997e(g)(2).

SO ORDERED.

Dated: September 8, 2015

/s/ Patti B. Saris
PATTI B. SARIS
CHIEF, UNITED STATES DISTRICT COURT